THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.11422 of 1999

DATED: 19.04.2007

Between:

B.Mogulaiah .. Petitioner

And

The Depot Manager,
APSRTC Bus Depot,
Sangareddy, Medak District,
and others. .. Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.11422 of 1999

ORDER:

This Writ Petition is filed challenging the award made in I.D.No.28 of 1997, dated 04.07.1998, on the file of Labour Court-II, Andhra Pradesh, Hyderabad, whereunder the petition filed by the petitioner herein under Section 2-A(2) of the Industrial Disputes Act, 1947 read with A.P. Amendment Act 32 of 1987 was rejected.

(2) It appears, the petitioner was appointed as a conductor in Andhra Pradesh State Road Transport Corporation (hereinafter for short referred to as 'A.P.S.R.T.C.') with effect from 24.02.1988 and at the relevant point of time, he was attached to A.P.S.R.T.C. Bus Depot, Sangareddy, Medak District. While so, on 27.03.1995, when he was conducting the bus bearing No.4367 on Basavapur to Sangareddy route, at about 2030 hours, a check was exercised at stage no.7/6 and the officials found certain cash and ticket irregularities, thereafter, a charge memo was issued and on the basis of the charge memo, charge sheet was issued enumerating the following charges:-

> 1. For having failed to observe the rule 'issue and start' which constitutes misconduct under Regulations 28 (xxxii) of APSRTC Employees (Conduct) Reg., 1963.
>
> 2. For having failed to possess MTD-141 card and you have obtained stages and fare as per your version which constitute misconduct under regulations, 28 (xxxi) of

APSRTC Employees (Conduct) Reg. 1963.

3. For having failed to issue tickets to a batch of 8 passengers everafter collecting requisite fare of Rs.16.50 in which 7 passengers have boarded your bus at Maddimanikyam and bound for Minpurex-stages 7 to 6 and 1 passenger boarded at Baswapur and bound for Sangareddy, ex-stages 8 to 1 which constitutes misconduct under Reg. 28 (xxv) of APSRTC Employees (Conduct) Regulations, 1963.

4. For having failed to collect the fare and issue tickets to a passenger who have boarded your bus at Maddimanikyam and bound for Sangareddy ex-stages 7 to 1 which constitutes misconduct under Regulations 28 (xxv) of APSRTC Employees (Conduct) 1963."

Having not satisfied with the explanation offered by the petitioner to the charges framed against him, the Management had conducted proper enquiry into the matter and the petitioner was removed from service by the order, dated 28.10.1995. It is the contention of the petitioner that the enquiry was not properly conducted and the charges framed against him are not proved and even assuming that the charges are proved, the punishment of removal from service is disproportionate to that of the misconduct. Aggrieved by the same, the petitioner filed an appeal before the appellate authority and the same was rejected on 16.04.1996. Thereafter, a review was preferred before the Regional Manager and the same was also rejected on 10.12.1996. Therefore, the petitioner filed application under Section 2-A (2) of I.D.Act. Though no oral or documentary evidence was let in, the Labour Court on the basis of the record made available before it, came to the conclusion that the domestic enquiry conducted by the Management was proper and valid and further the

charges were proved and as such the petitioner does not deserve any relief as prayed for and therefore, dismissed the I.D. Aggrieved by the same, the present writ petition is filed.

(3) The respondents filed a detailed counter denying the allegations made by the petitioner in his affidavit filed in support of the petition and reiterating the same stand as was taken during the course of enquiry before the Labour Court.

(4) The learned counsel for the petitioner strenuously contended that the substance of the charge is only to the extent that the petitioner having collected amount from the passengers, had failed to issue tickets. Further, the counsel for the petitioner contended that the petitioner after collecting money from the passengers under charge no.3, who boarded the bus at stage no.7, was in the process of issuing tickets, and since the check had taken place in between stage no.7 and 6, it cannot be said that the petitioner had any intention of defrauding the revenues of the Corporation. In fact, the distance between stage no.7 and 6 is very short and admittedly, the check had taken place in between stage no.7 and 6, thus, there was no time for the petitioner to complete the issuance of tickets, to complete entries in the S.R. etc. Further, the Management as well as the Labour Court have not taken into consideration the statement of M.M.Reddy and TI-II, who conducted the check and reported the matter to the higher authorities, that the petitioner was in the process of issuing tickets at the time of check. Once this is so, even assuming that there was some lapse on the part of the petitioner, the punishment of removal from service is disproportionate to that of the misconduct.

(5) Per Contra, the learned counsel for the respondents contended

that the petitioner worked in the respondents' Corporation on daily wage basis and was attached to Sangareddy Depot of Medak district. During his service, the petitioner was imposed with number of punishments. He was censured six times, his annual increment was deferred once and also he was suspended once. Further, the enquiry was properly conducted after giving full opportunity to the petitioner to defend himself, thereafter, the impugned order was passed and since the charges were proved against the petitioner, he was removed from service and the same was approved by the appellate authority and review authority and even the Labour Court refused to interfere into the same.

Further, the learned counsel for the respondents supported the award made by the Labour Court and contended that the petitioner has committed a grave misconduct of defrauding the revenues of the Corporation and admittedly, he has collected money at stage no.7 and he was supposed to issue tickets at stage no.7 itself and then move the bus further, whereas, in this case, without issuing tickets, the petitioner allowed the bus to move and even if the check had taken place at a short distance and he was in the process of issuing tickets, it cannot be said that the petitioner has not committed any misconduct. When the matter was carried by way of appeal and review also, the punishment imposed by the disciplinary authority was confirmed. Aggrieved by the same, the dispute was raised before the Labour Court and even the Labour Court has rightly come to the conclusion that the petitioner does not deserve any relief as sought for and rightly the dispute raised under Section 2-A(2) of the Industrial Dispute Act, 1947 was dismissed and no ground is made out calling for the interference of this Court under the Constitution of India.

(6) I have given my earnest consideration to the respective submissions made by the learned counsel on either side, and perused the impugned order and other material made available on record.

(7) Admittedly, the charges, as noted above, would indicate that under charge no.3, the petitioner failed to issue tickets having collected requisite fare from the passengers at stage no.7. Admittedly, the check had taken place in between stage no.7 and 6. It was the case of the petitioner that he was in the process of issuing tickets and one ticket has already been issued by that time. So far as charge no.4 is concerned, he has neither collected fare nor issued ticket to one passenger, who boarded the bus at stage no.7 in order to get down at stage no.1. In both these charges, the bus had not even crossed one fare stage. In fact, the conductor is allowed to issue tickets within one fare stage. In this case, no such opportunity was given and since the distance between stage no.7 and 6 is very short and admittedly, the check had taken place in between stage no.7 and 6, the charge even proved, cannot be taken very seriously. Apart from this, the statement of Mr.M.M.Reddy and TI-II, who conducted the check on the fateful day, would reveal as hereunder:

> "The conductor failed to issue tickets to a batch of 7 passengers in a total batch of 8 passengers evenafter collecting the requisite fare of Rs.16.50 ps. in which one passenger have boarded the bus at Basavapur and travelling upto Sangareedy. The conductor has issued him the ticket bearing No.132/689564 of Rs.6/- denomination each 1 correctly, but has not issued to the remaining batch of 7 passengers, but taken the 7 tickets of No.946/120909 to 915 of Rs.1.50 ps. den. each 7 into his hand and was in a process of issuing to passengers we have prevented the same on the seeing at the time of our check. The above tickets of 7 and the ticket bearing

No.132/689564 of Rs.6/- den. were confiscated. The 7 passengers have boarded the bus at Mudimanikyam and bound for Minpur ex-stages.

This would clearly indicate that there was no intention on the part of the petitioner to defraud the revenues of the Corporation. May be, he had collected money at stage no.7 and allowed the bus to move, but he was in the process of issuing tickets and in fact, the tickets were taken out of the bunch even according to the TI-II, who checked the bus.

(8) Under these circumstances, I am of the opinion that the evidence of Mr. M.M.Reddy and TI-II is totally ignored by the Management as well as the Labour Court. This statement would, in fact, tilt the balance and would support the case of the petitioner. May be, the petitioner has suffered some minor punishments like censure, stoppage of one increment and suspension, but these are all very casual punishments which a conductor gets during his tenure of service. The petitioner might have committed some minor irregularity, but that itself does not deserve the punishment of removal from service. Therefore, I am of the opinion that the award passed by the Labour Court is liable to be set aside. Accordingly, set aside. The respondents' Management is directed to reinstate the petitioner with continuity of service, but without backwages and without any attendant benefits.

(9) Accordingly, the writ petition is allowed. No order as to costs.

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(**C.V.RAMULU,J)**

19.04.2007
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